

THE GEORGE WASHINGTON UNIVERSITY
Washington, D. C.

MINUTES OF A REGULAR MEETING
OF THE FACULTY SENATE HELD ON
FEBRUARY 14, 1986, IN LISNER HALL
Room 603

- 1 The meeting was called to order by Vice President French at 2:15 p.m.

Present: Vice President French, Registrar Grimm, Parliamentarian Schechter, Altshuler, Cheh, Claeysens, East, Eldridge, Fox, Frey, Greene, Griffith, Hill, Kelly, Levy, Liebowitz, Morgan, Pierpont, Rashid, D. Robinson, L. Robinson, Schiller, Tolchin, Wallace, and Ziolkowski

Absent: President Elliott, Barron, Birnbaum, Castleberry, Della Torre, Kenney, Loeser, Lovett, Parrish, Schiff, Singpurwalla, Smith, and Solomon

Professor Griffith then asked for unanimous consent to postpone approval of the minutes of the Special Meeting of the Senate held January 31, 1986, until the next regular meeting, and there were no objections.

- 2 The minutes of the regular meeting of January 17, 1986, were approved as distributed.
- 3 (a) On behalf of the Professional Ethics and Academic Freedom Committee, Professor Hill moved the adoption of Resolution 85/8, "A Resolution to Amend Article X and Procedures for Implementation of Article X, Paragraph E, of the Faculty Code," and the motion was seconded. Professor Hill said that the Professional Ethics and Academic Freedom Committee considered the Administration's objections and suggestions for modification and/or deletion of language contained in Resolutions 84/4 and 84/5, adopted by the Senate May 4, 1984, and December 14, 1984, respectively. He explained, step-by-step, the committee's recommendations for further amending the language of Resolutions 84/4 and 84/5, most of which would delete any reference to arbitration procedures which the administration was unwilling to accept. He noted that the committee had also been asked to consider recommendations for amending the Disposition Clause of Section 5. He said that the committee had considered the possibility of proposing new language to establish procedures to be followed for disposition of

grievance cases by the Board of Trustees, but the committee had no recommendation to make at this time.

Professor Griffith commented with regard to the PEAFC Committee's response concerning the Disposition Clause, Section 5., and agreement to delete the arbitration procedures earlier adopted by the Senate. First, he said that he understood the PEAFC Committee's reluctance to recommend that the Board of Trustees set up formal procedures for handling decisions of hearing and appellate committees; however, he suggested that some responsible members of the administration might suggest to the Board that it consider establishing regular procedures for handling disposition of grievance cases. Secondly, he said that the inclusion of arbitration procedures in the grievance system was an attempt to provide an alternative dispute resolution for matters of a less serious but nonetheless substantial nature, and he hoped that the administration would genuinely seek to try the possibility of arbitration in certain types of disputes, as promised by Vice President French.

Professor Griffith then moved to amend Article X. Section B. Grievances, Par. 4) by striking the words "University action motivated by prejudicial malice," so that the same would read: "4) retaliation for exercise of Code-protected rights." The motion was seconded. Professor Griffith explained that University counsel raised the question of whether or not "prejudicial malice" was too broad a concept which might invite grievances; Professor Griffith said it seemed to him that retaliation against someone attempting to vindicate a right under the Code is itself a matter of grievance, and that that language should be retained in Par. 4). Professor Levy commented that he did not understand how retaliation without evidence of any arbitrary or capricious action by the University could be raised as a grievance. Professor Morgan supported the amendment pointing out that retaliatory action is by definition a violation of a right and does evoke a grievance. Professor Cheh voiced her concern that a faculty member, having been unsuccessful in a prior grievance, might in a subsequent adverse action involving tenure, for example, simply allege retaliation as motivation for denying that person tenure. Professor Griffith responded that the faculty member would have to show evidence to that effect. Further discussion followed by Professors Cheh, Griffith, and Morgan. Professor David Robinson said that there were two dangers present: a person could be subjected to adverse action that is the result of retaliation; and a person who files a grievance becomes a member of a "specially-protected" class, because many disputes such as office assignments, course

assignments, etc., can be alleged to be "retaliatory." Professor Robinson said it seemed to him that "substantial injury" would have to be proven if a claim of retaliation is to be made. He then moved to amend Professor Griffith's amendment by inserting the words "that he/she has suffered a substantial injury resulting from" after the word "allege" in the second line of the first paragraph of Section B. Grievances, so that the same would read: "To maintain a grievance, the complaining party must allege that he/she has suffered a substantial injury resulting from a violation of professional rights or privileges concerning academic freedom, tenure, promotion, reappointment, dismissal, or sabbatical or other leave arising from. . . ." Professor Griffith accepted Professor Robinson's amendment. Further discussion followed by Professors Schiller, Griffith, and Eldridge. Professor Hill pointed out that if Professor Griffith's amendment is adopted, the correlate language in Par.7), on page 7, must be made parallel. Professor Cheh then said she would like the record to show that with reference to the amendment it is the sense of the Senate that it is not opening the door to someone, who having once filed a grievance and lost, to thereafter file a grievance on any adverse action against him or her by claiming retaliation. The question was called, and the amendment was adopted.

Professor Griffith then moved to amend Paragraph 7), line 13, on page 7, by substituting the words "by a ponderance of the" for the words "clear and convincing," so that the same would read: "but rather it shall determine whether the grievant has established by a preponderance of the evidence that he/she has suffered a substantial injury" The motion was seconded.

Professor Griffith explained that the standard of "clear and convincing" evidence unduly raises the standard of proof on the grievant. He said that the record of grievances shows that it is fairly rare that the grievant wins and there did not appear to be a built-in bias toward grievants that needed to be off-set by raising the standard of proof. In most cases, Professor Griffith said, it seemed to him that gathering of evidence by the grievant was often difficult since much of the documentation was usually in the possession of the respondent. He urged the Senate to accept the standard of "preponderance of evidence" in the interest of fairness to all parties concerned.

Professors Hill, Morgan, D. Robinson, and Cheh opposed the amendment, pointing out that the standard of "clear and convincing evidence" should be preserved as a safe-guard to ensure that the Grievance Committee acts as a review body only. The question was called and the amendment failed. The question was then called on the original motion, as amended, and Resolution 85/8, as amended, was adopted. (Resolution 85/8 is attached.)

- 3 (b) On behalf of the Professional Ethics and Academic Freedom Committee, Professor Hill moved the adoption of Substitute Resolution 85/9, "A Resolution to Amend Article III. of the Faculty Code," which was distributed to the members at the meeting. The motion was seconded. Professor Hill explained that this resolution was a result of the agreement to delete lateral grievances provided for in Resolution 84/4, Article X., B.1.b) allowing faculty to bring grievances against other faculty for significant neglect of faculty responsibilities, which had also been objected to by the administration.

Professor Fox said it seemed to him that there should be included in this resolution a requirement that the faculty member who has allegedly breeched his/her professional responsibilities be notified at the same time administrative officers are notified. Professors Hill and Griffith spoke against that requirement. Vice President French observed that the Senate was quite in order to revise the Code, but he believed that revisions to the Faculty Handbook were made upon recommendations by the administration. Discussion followed by Professors Griffith, Hill, Morgan, Levy, Wallace, Fox, and Pierpont. Professor Fox moved that the last sentence of Paragraph (b) be deleted because he thought it redundant. The motion was seconded. Professors Griffith and Wallace spoke against the amendment because the present language provided useful guidance, particularly for junior faculty. Professor Pierpont spoke in support of the amendment. The question was called and the amendment failed. The question was called on the original motion, and Resolution 85/9 was adopted. (Resolution 85/9 is attached.)

- 4 No resolutions were introduced under "Introduction of Resolutions."

- 5 (a) Professor Hill, Chair of the Special Committee on Senate Self-Study (Grievance), spoke briefly about the committee's Final Report distributed with the agenda. He said that the committee did not expect this report to be without critics; however, he said, the committee takes responsibility for the recommendations contained therein,

Correction
3/21/86

but not for the findings. With regard to the fourteen recommendations, the committee thought that some of these could take the form of formal resolutions through appropriate Standing Committees. There was no discussion, and the report was received.

(b) Professor Lilien Robinson, Chair, Educational and Admissions Policy Committee, moved the nomination of Gary Warner, student, for election to the Educational and Admissions Policy Committee, as a replacement for Jon Mehl, student. Mr. Warner was unanimously elected.

(c) On behalf of the Executive Committee, Professor Griffith reported as follows: (1) A response from President Elliott had been received with regard to the Senate resolution on a smoking policy, in which the President stated that he approved a new University Smoking Policy on February 3, 1986, but did not accept the Senate's recommendation concerning smoking in residence halls. Professor Griffith noted that he was consulted with regard to the smoking areas on the 6th Floor of Lisner Hall, and after consultation with the President and the Executive Committee, he recommended to the Associate Provost that the lobby adjacent to the Senate Conference Room be designated as a smoking area, unless members of the History Department who occupy offices on that floor object. (2) A complaint has been received from a Medical Center faculty member alleging infringement of rights. A preliminary investigation was being conducted at this time. (3) The nonconcurrence matter, referred to at a prior meeting, has been settled by the withdrawal of the faculty recommendation. (4) A letter was sent to the Chairs of all Senate Standing Committees inviting them to submit resolutions in response to the Commission Report to the Executive Committee by February 28th for inclusion on the Senate agenda for the March 21st Senate meeting. (5) Annual letters to the faculty have been sent out inviting volunteers for service on Senate Standing Committees and Administrative Committees.

6 There were no Brief Statements.

7 The meeting was adjourned by Vice President French at 4:00 p.m., upon motion made and seconded.



Theodore H. Grimm, Jr.
Secretary

A RESOLUTION TO AMEND ARTICLE X AND PROCEDURES
FOR IMPLEMENTATION OF ARTICLE X, PARAGRAPH E, OF
THE FACULTY CODE (85/8)

WHEREAS, the University Administration has taken exception to Senate Resolutions 84/4 and 84/5, both of which proposed amendments to Article X of the Faculty Code intended:

- (1) "to clarify the language of the Faculty Code as to what violations of rights and responsibilities may give rise to grievances," and
- (2) "to provide an alternative method of dispute resolution by arbitration;" and

WHEREAS, the Committee on Professional Ethics and Academic Freedom has considered the Administration's objections and suggestions for modification and/or deletion of language contained in Resolutions 84/4 and 84/5;
THEREFORE

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY

That Article X and Procedures for Implementation of Article X, Paragraph E, of the Faculty Code, as amended by Senate Resolutions 84/4 and 84/5, be further amended as follows:

(Note: The earlier amended language appears in the right-hand column; the further amendments proposed by the Professional Ethics and Academic Freedom Committee appear in the left-hand column.)

Committee on Professional Ethics and Academic Freedom
December 13, 1985

Adopted, as amended, February 14, 1986

FACULTY CODE

X. RIGHTS, PRIVILEGES AND RESOLUTION OF DISPUTES UNDER THIS CODEA. Rights and Privileges Under This Code

delete

The rights, privileges, and responsibilities of a faculty member conferred by this Code ~~or by governing principles of law~~ shall be carefully safeguarded in accordance with the highest accepted principles, practices, and procedures of the academic community. An alleged infringement of such rights or privileges or an alleged violation of such responsibilities ~~or a charge of unfair or discriminatory treatment based on race, color, religion, sex, national origin, or other considerations prohibited by law with regard to conditions of employment~~, shall first be considered by the faculty member or members concerned, or by appropriate representatives of the faculty, in cooperation with the responsible administrative officers. If such consideration does not lead to an adjustment satisfactory to the parties involved, the procedures for the implementation of this Article shall be fully utilized.

B. Grievances

maintain a grievance, the complaining party must allege that he/she has suffered a substantial injury resulting from a violation of professional rights or privileges concerning academic freedom, tenure, promotion, reappointment, dismissal, or sabbatical or other leave, arising from:

- 1) acts of discrimination prohibited by Federal or local law;
- 2) failure to follow the Faculty Code and Handbook and other rules, regulations and procedures established by the University;
- 3) arbitrary and capricious University actions; or arbitrary and capricious applications of Federal or local statutes and regulations; or
- 4) University action motivated by prejudicial malice or retaliation for exercise of Code-protected rights.

B. Grievable or Arbitrable Issues1. Grievances

To maintain a grievance, the complaining party must allege either:

a) a violation of professional rights or privileges concerning such matters as academic freedom, tenure, promotion, reappointment, dismissal, or sabbatical or other leave, such as an

- 1) violation of law;
- 2) unfair procedure or failure to follow established procedures;
- 3) University action motivated by prejudicial malice or retaliation for exercise of protected rights; or
- 4) University action without a reasoned basis in fact or University records;

or b) serious misconduct by a faculty member or significant neglect of a faculty member's responsibilities, in which case a complaint may be brought by regular active status faculty.

delete

2. Arbitration

To maintain an arbitrable complaint over administrative actions or practices, the complaining party must allege a substantial injury affecting professional status or activities, such as teaching assignments, salary, assignment of office space or other support of professional activities. The complaint must have a basis in contract, or academic tradition, or local custom.

3. Jurisdiction in Mixed Complaints

If a grievance is properly alleged, the Dispute Resolution Committee shall have jurisdiction over all related administrative matters that would otherwise be resolved by arbitration.

3. Formal Proceedings

a) Commencement of Proceedings

1) If the preliminary proceedings do not result in a mutually satisfactory resolution of the dispute, any party to the dispute may commence formal proceedings by means of a complaint addressed to the Chairman of the Grievance Dispute Resolution Committee, with copies sent to the Chairman of the Executive Committee of the Faculty Senate and the other party or parties.

2) The complaint shall set forth with particularity the nature of the dispute, specifying the rights or responsibilities under the Faculty Code alleged to have been violated, or the substantial injury allegedly inflicted, the specific act or acts alleged to constitute the violation, or to have inflicted the injury, the identity of the remedy sought, and the reasons alleged to justify the remedy. No grievance or arbitration may be maintained on the basis of error which did not affect the substantial rights of the complainant.

3) Within twenty calendar days of the receipt of the complaint, the other party or parties to the dispute shall reply in writing, sending copies of the reply to the Chairman of the Grievance Dispute Resolution Committee, the Chairman of the Executive Committee of the Faculty Senate, and the complaining party or parties. -4) The reply shall set forth with particularity the position of the replying party or parties with respect to each allegation of the complaint.

b) Hearing Committee and Hearing Officer

1)

~~1) Upon receipt of the complaint and reply, the Chairman of the Dispute Resolution Committee shall, with the advice of the Executive Committee of the Faculty Senate, consider whether the matter in dispute is suitable for arbitration, and if he finds it so, shall ~~immediately~~ offer arbitration to the parties.~~

delete

Agreement to arbitration binds the parties to accept the arbitrator's award. If the parties agree, the Chairman of the Dispute Resolution Committee shall initiate the arbitration process as specified below. If the matter in dispute is not suitable for arbitration or the parties fail to agree on arbitration, the Chairman of the Dispute Resolution Committee shall appoint a Hearing Committee and Hearing Officer as provided below to consider whether a grievance may be maintained.

privileges

(Paragraph 2) to read, with indicated deletions:)

2) The complaint shall set forth with particularity the nature of the dispute, specifying the rights or privileges under the Faculty Code alleged to have been violated, the specific act or acts alleged to constitute the violation, the identity of the remedy sought, and the reasons alleged to justify the remedy. No grievance may be maintained on the basis of error which did not affect the substantial rights of the complainant.

3. Formal Proceedings

delete

a) Commencement of Proceedings /cont./

Add new section:

5) Arbitration shall not be initiated unless all parties to the dispute agree to arbitration. Where a dispute contains issues that are arbitrable only and issues that are grievable, the parties may agree to sever the issues which are arbitrable only and arbitrate only those issues. If the parties agree to arbitration, the Chairman of the Dispute Resolution Committee shall initiate the arbitration process as specified below. If the matter in dispute is not suitable for arbitration or the parties fail to agree on arbitration, the Chairman of the Dispute Resolution Committee shall appoint a Hearing Committee and a Hearing Officer as provided below to consider whether a grievance may be maintained.

E. PROCEDURES FOR IMPLEMENTATION

3. Formal Proceedings

b) Arbitration

1) Upon mutual agreement to arbitration, an arbitrator shall be ~~picked~~ designated by the Chairman of the Dispute Resolution Committee, in consultation with the Executive Committee, from a ~~panel of~~ University faculty ~~who are~~ ~~qualified by~~ selected on the basis of their experience and training. ~~The complainant~~
Any party may make one preemptory challenge to the arbitrator appointed. Any party may also challenge or cause the arbitrator appointed, in which case the Dispute Resolution Committee shall review the challenge, and if it is found justified, the Chairman shall appoint another arbitrator.

2) The Arbitrator shall request expeditiously that the parties concerned submit documents and other information enabling the arbitrator to determine that an arbitrable dispute exists. This initial activity may include interviewing the parties. If the arbitrator finds that the dispute is not an arbitrable one under Article X.8.2. of the Code, he shall return the dispute to the Dispute Resolution Committee for disposition. Otherwise a time for hearing shall be set as soon as all parties can appear.

3) The arbitration hearing is less formal than that for resolving grievances, and emphasis shall be on a complete and fair presentation of the issues. The parties shall have access to all documents submitted to the arbitrator, except documents pertaining to individual faculty salaries. The arbitrator may question witnesses and otherwise assist the parties to present the information needed to make an informed decision. Each party may make a closing statement after all testimony has been presented.

Add new section:

4) The task of the arbitrator is not to substitute his/her judgment for that of the makers of the decision which is being challenged unless he/she finds that a substantial injury has resulted from an arbitrary and capricious action.

DELETE

E. PROCEDURES

3. Formal Proceedings

b) Arbitration /cont./

~~4) 5) The award and a written reason for the decision shall be prepared by the arbitrator within 60 days from conclusion of the hearing. A copy shall be sent to the faculty member, and other parties to the dispute, and the Dispute Resolution Committee. The award is binding on the parties, including the University, should it be a party.~~

~~b) c) Hearing Committee and Hearing Officer~~

~~N) If the issue in dispute is not suitable for arbitration or the parties fail to agree to binding arbitration, the Chairman of the Dispute Resolution Committee shall, with the advice of the Executive Committee of the Faculty Senate,~~

~~appoint a Hearing Committee of three members from among the members of the Dispute Resolution Committee, and a presiding Hearing Officer from a panel of names previously approved by the Executive Committee. The Hearing Officers shall be chosen from among University personnel of appropriate experience and training, but need not be attorneys. The role of the Hearing Officer throughout these procedures is to assure an orderly, expeditious, and relevant hearing; to assure the development of a complete, fair and reliable record; and to advise the Hearing Committee as to issues of substance and procedure. The Hearing Committee may request the replacement of the Hearing Officer at any time.~~

(Delete rest of original section.)

2) No member of the same department as a party shall sit on the Hearing Committee. Any party to a dispute may disqualify one member of the Hearing Committee by preemptory challenge. Any party may also seek to disqualify a any member of the Hearing Committee for cause. The Dispute Resolution Committee shall hear and decide any challenges for cause. The Chairman of the Dispute Resolution Committee shall, from among the remaining members of the Dispute Resolution Committee, fill any vacancies on the Hearing Committee created by challenges.

DELETE

(pick up from b) 1) on page 2)

b)

(Res. 84/5) 5

b) ~~5~~ Hearing Committee and
Hearing Officer /cont./

3) When all challenges have been decided and vacancies filled, and as soon as reasonably possible after receipt of respondent's reply, the Chairman of the Dispute Resolution Committee shall convene the Hearing Committee to review the Complaint. If a defendant/moves/to/dismiss and if the/Chairman/of/the/Dispute/Resolution Committee and two/members/of/the/Hearing Committee or if/all/members/of/the/Hearing Committee majority of the Hearing Committee.

delete —

after an opportunity for informal argument by the parties, finds that the complaint does not allege facts sufficient to state a grievance under the Code or that the complaint is based upon evidence or allegations which are substantially the same as those that have been previously heard and decided, or which could have been presented in a previous hearing, or that the complaint raises, in whole or in part, issues that are arbitrable only, the complaint shall be automatically referred to the Dispute Resolution Committee for consideration at the earliest reasonable time. If ten/members a majority of the Dispute Resolution Committee (the/Hearing/Chairman/and/the/members/of/the/Hearing/Committee) concludes that for any of the reasons set out in this section a hearing is not warranted, the complaint shall be dismissed, in whole or in part, and the matters dismissed deemed closed.

Add new section:

4) On the determination that a hearing is warranted, the Hearing Committee shall be convened by the presiding Hearing Officer and establish a schedule for the hearing.

4) 5) No change

Add new section:

6) It shall be the duty of the Hearing Officer to convene promptly the meetings of the Hearing Committee and to preside; to assure the expeditious disposition of the case; to rule on all questions of substance or procedure necessary to the conduct of the hearing, subject to being overridden by a majority vote of the Hearing Committee; to ask questions and to control the development of testimony and of evidence in the record as deemed appropriate; to prepare a draft opinion for the use of the Hearing Committee; and to advise the Hearing Committee in its deliberations on questions of substance and procedure. The Hearing Officer does not vote on the ultimate questions of fact, substance, procedure, or policy, as

b) — E. PROCEDURES FOR IMPLEMENTATION

3. Formal Procedures

b) a) Hearing Committee and Hearing Officer
/cont./

these are acted upon by the Hearing
Committee. The Hearing Officer signs
dispositive orders of the Hearing Committee
only to authenticate them.

Add new section:

7) Members of hearing committees, members
of the Dispute Resolution Committee, and
the parties shall avoid ex-parte communica-
tions bearing on the substance of the
dispute.

3. Formal Proceedings

c)

e) ~~d)~~ Procedure for Hearings

1) No change

2) A grievance procedure is not a formal judicial proceeding. Its purpose is to provide a fair evaluation of the allegation that a right or a responsibility has been violated. In order to achieve that end, the Hearing Committee shall have authority to require the appearance of any material witness who is a member of the University faculty, administration, or staff, and also any other person who is willing to testify; to question parties and witnesses; to exclude matters it deems irrelevant; and to place reasonable limits on arguments, the presentation of evidence, and the questioning of witnesses by the parties.

privilege

In order to achieve that end, the Hearing Committee shall have authority to call any material witness who is

The University will make a reasonable effort to facilitate the appearance of witnesses.

3) The procedure at the hearings shall be informal, but shall comply with the requirements of fairness to the parties. The Hearing Committee is not required to comply with rules of evidence applicable in courts of law and may receive any relevant evidence which is not privileged. The Hearing Committee may decline to consider evidence where its probative value is outweighed by considerations of unfair prejudice, confusion of the issues, undue delay, waste of time, or needless presentation of cumulative evidence. The parties

The parties shall be entitled to testify on their own behalf, to call as material witnesses any member of the University faculty, administration, or staff, and to call any other person who

shall be entitled to testify on their own behalf, to require the appearance of any material witness who is a member of the University faculty, administration, or staff, and to call any other person who is willing to testify; to present written and other tangible evidence, and to cross-examine witnesses called by other parties. Sworn depositions may be received in evidence at the discretion of the Hearing Committee. A party shall be entitled to inspect and, in advance of the hearing, any relevant documents in the control of the other party and not privileged, and may offer documents or excerpts therefrom in evidence.

The University will make a reasonable effort to facilitate the appearance of witnesses.

3. Formal Proceedings

c) ~~e) d)~~ Procedure for Hearings /cont./

4) No change

5) No change

6) No change

7) At the conclusion of the presentation of evidence and argument from both sides the Committee shall deliberate and reach a decision in closed session. In rendering its decision the Hearing Committee shall not substitute its judgment for that of the maker of the decision being challenged but rather it shall determine whether the grievant has established clear and convincing evidence that he/she has suffered a substantial injury resulting from: 1) acts of discrimination prohibited by Federal or local law; 2) the decision-maker's failure to follow the Faculty Code, or Faculty Handbook, or other rules, regulations and procedures established by the University; 3) arbitrary and capricious University actions; or arbitrary and capricious applications of Federal or local statutes and regulations; or 4) University action motivated by prejudicial malice or retaliation for exercise of Code-protected rights.

~~7) At the conclusion of the taking of evidence and the hearing of arguments, the Committee shall deliberate and reach its decision in closed session. The Hearing Committee is not to substitute its judgment for that of the makers of a decision which is being challenged but rather to determine whether a substantial injury has resulted from an action that was arbitrary and capricious or otherwise substantially in violation of the Faculty Code. The vote of a majority shall be determinative.~~

8) ~~Within ten calendar days~~ The Hearing Committee: Committee shall render its findings and recommendations in a written report which shall state the number of members subscribing to the report and shall include dissenting opinions, if any. This report shall be submitted to the Chairman of the Executive Committee of the Faculty Senate and copies shall be transmitted to the parties and to the Chairman of the Dispute Resolution Committee.

Add new section:

9) The hearing procedures shall be concluded and the Hearing Committee's decision shall be rendered as soon as practicable.

(SUBSTITUTE RESOLUTION)

A RESOLUTION TO AMEND ARTICLE III OF THE FACULTY CODE, AND THE
FACULTY HANDBOOK (85/9)

WHEREAS, the University Administration has disapproved an amendment to Article X of the Faculty Code that would have permitted faculty to maintain a grievance by alleging a colleague's serious misconduct or significant neglect of responsibility, and to bring a complaint thereunder to arbitration; and

WHEREAS, both tradition and current practice suggest that University faculty, like members of other professions, be held to self-imposed standards of conduct, THEREFORE

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY

- (a) That the following statement of professional responsibility be inserted as a new Section B of Article III of the Faculty Code, with appropriate re-lettering of the Sections that follow:

"Members of the faculty are responsible for maintaining standards of professional ethics and for the fulfillment of faculty responsibilities."

- (b) That the following statement of faculty responsibility for professional conduct be inserted on page 20 of the most recent edition of the Faculty Handbook:

"Members of the faculty have a responsibility to advise the appropriate administrative officers of the University whenever they have reason to believe that a colleague has committed a serious breach of professional ethics or has neglected a significant faculty responsibility. Although evidence of such breaches or negligence should normally be made known to the department chair or to the dean, it may also be brought to the attention of the Vice President for Academic Affairs."

Committee on Professional Ethics
and Academic Freedom
January 25, 1986

Adopted February 14, 1986

THE GEORGE WASHINGTON UNIVERSITY
Washington, D. C.
20052

The Faculty Senate

February 3, 1986

The Faculty Senate will meet on Friday, February 14, 1986,
at 2:10 p.m., in Lisner Hall 603.

AGENDA

1. Call to order
2. Approval of the minutes of the regular meeting of
January 17, 1986
3. Old Business:
 - (a) A RESOLUTION TO AMEND ARTICLE X AND PROCEDURES
FOR IMPLEMENTATION OF ARTICLE X, PARAGRAPH E, OF
THE FACULTY CODE (85/8); Professor Peter P. Hill,
Chair, Professional Ethics and Academic Freedom
Committee (Resolution 85/8 attached)
 - (b) A RESOLUTION TO AMEND ARTICLE III OF THE FACULTY
CODE (85/9); Professor Peter P. Hill, Chair, Pro-
fessional Ethics and Academic Freedom Committee
(Resolution 85/9 attached)
4. Introduction of Resolutions
5. General Business:
 - (a) Report of the Special Committee of the Faculty
Senate to Study the Nature and Role of Faculty
Participation in University Governance; Professor
Peter P. Hill, Chair (Report attached)
 - (b) Nomination for election of Gary Warner, student,
to the Educational and Admissions Policy Commit-
tee, as replacement for Jon Mehl, student
 - (c) Report of the Executive Committee; Professor
William B. Griffith, Chair
6. Brief Statements
7. Adjournment



Theodore H. Grimm, Jr.
Secretary

A RESOLUTION TO AMEND ARTICLE X AND PROCEDURES
FOR IMPLEMENTATION OF ARTICLE X, PARAGRAPH E, OF
THE FACULTY CODE (85/8)

WHEREAS, the University Administration has taken exception to Senate Resolutions 84/4 and 84/5, both of which proposed amendments to Article X of the Faculty Code intended:

- (1) "to clarify the language of the Faculty Code as to what violations of rights and responsibilities may give rise to grievances," and
- (2) "to provide an alternative method of dispute resolution by arbitration;" and

WHEREAS, the Committee on Professional Ethics and Academic Freedom has considered the Administration's objections and suggestions for modification and/or deletion of language contained in Resolutions 84/4 and 84/5;
THEREFORE

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE
WASHINGTON UNIVERSITY

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(Note: The earlier amended language appears in the right-hand column; the further amendments proposed by the Professional Ethics and Academic Freedom Committee appear in the left-hand column.)

Committee on Professional Ethics and Academic Freedom

December 13, 1985

FACULTY CODE

X. RIGHTS, PRIVILEGES AND RESOLUTION OF DISPUTES
UNDER THIS CODEA. Rights and Privileges Under This Code

delete

The rights, privileges, and responsibilities of a faculty member conferred by this Code ~~or by governing principles of law~~ shall be carefully safeguarded in accordance with the highest accepted principles, practices, and procedures of the academic community. An alleged infringement of such rights or privileges or an alleged violation of such responsibilities ~~or a charge of unfair or discriminatory treatment based on race, color, religion, sex, national origin, or other considerations prohibited by law with regard to conditions of employment~~, shall first be considered by the faculty member or members concerned, or by appropriate representatives of the faculty, in cooperation with the responsible administrative officers. If such consideration does not lead to an adjustment satisfactory to the parties involved, the procedures for the implementation of this Article shall be fully utilized.

B. Grievances

To maintain a grievance, the complaining party must allege a violation of professional rights or privileges concerning academic freedom, tenure, promotion, reappointment, dismissal, or sabbatical or other leave, arising from:

- 1) acts of discrimination prohibited by Federal or local law;
- 2) failure to follow the Faculty Code and Handbook and other rules, regulations and procedures established by the University;

arbitrary and capricious University actions; or arbitrary and capricious applications of Federal or local statutes and regulations; or

- 4) University action motivated by prejudicial malice or retaliation for exercise of Code-protected rights.

A. Grievable or Arbitrable Issues1. Grievances

To maintain a grievance, the complaining party must allege either:

a) a violation of professional rights or privileges concerning ~~such matters as~~ academic freedom, tenure, promotion, reappointment, dismissal, or sabbatical or other leave, ~~such as~~ might arise from

- 1) violation of law;
- 2) unfair procedure or failure to follow established procedures;
- 3) University action motivated by prejudicial malice or retaliation for exercise of protected rights; or
- 4) University action without a reasoned basis in fact or University records;

or b) serious misconduct by a faculty member or significant neglect of a faculty member's responsibilities, in which case a complaint may be brought by regular active status faculty.

delete

2. Arbitration

To maintain an arbitrable complaint over administrative actions or practices, the complaining party must allege a substantial injury affecting professional status or activities, such as teaching assignments, salary, assignment of office space or other support of professional activities. The complaint must have a basis in contract, or academic tradition, or local custom.

3. Jurisdiction in Mixed Complaints

If a grievance is properly alleged, the Dispute Resolution Committee shall have jurisdiction over all related administrative matters that would otherwise be resolved by arbitration.

3. Formal Proceedings

a) Commencement of Proceedings

1) If the preliminary proceedings do not result in a mutually satisfactory resolution of the dispute, any party to the dispute may commence formal proceedings by means of a complaint addressed to the Chairman of the Grievance Dispute Resolution Committee, with copies sent to the Chairman of the Executive Committee of the Faculty Senate and the other party or parties.

2) The complaint shall set forth with particularity the nature of the dispute, specifying the rights or responsibilities under the Faculty Code alleged to have been violated, or the substantial injury allegedly inflicted, the specific act or acts alleged to constitute the violation, or to have inflicted the injury, the identity of the remedy sought, and the reasons alleged to justify the remedy. No grievance or arbitration may be maintained on the basis of error which did not affect the substantial rights of the complainant.

3) Within twenty calendar days of the receipt of the complaint, the other party or parties to the dispute shall reply in writing, sending copies of the reply to the Chairman of the Grievance Dispute Resolution Committee, the Chairman of the Executive Committee of the Faculty Senate, and the complaining party or parties. -4) The reply shall set forth with particularity the position of the replying party or parties with respect to each allegation of the complaint.

1) ~~4)~~ Upon receipt of the complaint and reply, the Chairman of the Dispute Resolution Committee shall, with the advice of the Executive Committee of the Faculty Senate, ~~consider whether the matter in dispute is suitable for arbitration, and if he finds it so, shall accordingly offer arbitration to the parties~~
Agreement to arbitration binds the parties to accept the arbitrator's award. If the parties agree, the Chairman of the Dispute Resolution Committee shall initiate the arbitration process as specified below. If the matter in dispute is not suitable for arbitration or the parties fail to agree on arbitration, the Chairman of the Dispute Resolution Committee shall appoint a Hearing Committee and Hearing Officer as provided below to consider whether a grievance may be maintained.

privileges

(Paragraph 2) to read, with indicated deletions:)

2) The complaint shall set forth with particularity the nature of the dispute, specifying the rights or privileges under the Faculty Code alleged to have been violated, the specific act or acts alleged to constitute the violation, the identity of the remedy sought, and the reasons alleged to justify the remedy. No grievance may be maintained on the basis of error which did not affect the substantial rights of the complainant.

b) Hearing Committee and Hearing Officer

delete

3. Formal Proceedings

delete

a) Commencement of Proceedings /cont./

Add new section:

5) Arbitration shall not be initiated unless all parties to the dispute agree to arbitration. Where a dispute contains issues that are arbitrable only and issues that are grievable, the parties may agree to sever the issues which are arbitrable only and arbitrate only those issues. If the parties agree to arbitration, the Chairman of the Dispute Resolution Committee shall initiate the arbitration process as specified below. If the matter in dispute is not suitable for arbitration or the parties fail to agree on arbitration, the Chairman of the Dispute Resolution Committee shall appoint a Hearing Committee and a Hearing Officer as provided below to consider whether a grievance may be maintained.

E. PROCEDURES FOR IMPLEMENTATION

3. Formal Proceedings

b) Arbitration

1) Upon mutual agreement to arbitration, an arbitrator shall be ~~picked~~ designated by the Chairman of the Dispute Resolution Committee, in consultation with the Executive Committee, from a panel of University faculty who are qualified by selected on the basis of their experience and training. ~~The complainant~~
Any party may make one preemptory challenge to the arbitrator appointed. Any party may also challenge or cause the arbitrator appointed, in which case the Dispute Resolution Committee shall review the challenge, and if it is found justified, the Chairman shall appoint another arbitrator.

2) The Arbitrator shall request expeditiously that the parties concerned submit documents and other information enabling the arbitrator to determine that an arbitrable dispute exists. This initial activity may include interviewing the parties. If the arbitrator finds that the dispute is not an arbitrable one under Article X.B.2. of the Code, he shall return the dispute to the Dispute Resolution Committee for disposition. Otherwise a time for hearing shall be set as soon as all parties can appear.

3) The arbitration hearing is less formal than that for resolving grievances, and emphasis shall be on a complete and fair presentation of the issues. The parties shall have access to all documents submitted to the arbitrator, except documents pertaining to individual faculty salaries. The arbitrator may question witnesses and otherwise assist the parties to present the information needed to make an informed decision. Each party may make a closing statement after all testimony has been presented.

Add new section:

4) The task of the arbitrator is not to substitute his/her judgment for that of the makers of the decision which is being challenged unless he/she finds that a substantial injury has resulted from an arbitrary and capricious action.

DELETE

E. PROCEDURES

3. Formal Proceedings

b) Arbitration /cont./

4) 5) The award and a written reason for the decision shall be prepared by the arbitrator within 60 days from conclusion of the hearing. A copy shall be sent to the faculty member, an other parties to the dispute, and the Dispute Resolution Committee. The award is binding on the parties, including the University, should it be a party.

b) c. Hearing Committee and Hearing Officer

N) If the issue in dispute is not suitable for arbitration or the parties fail to agree to binding arbitration, the Chairman of the Dispute Resolution Committee shall, with the advice of the Executive Committee of the Faculty Senate, appoint a Hearing Committee

of three members from among the members of the Dispute Resolution Committee, and a presiding Hearing Officer from a panel of names previously approved by the Executive Committee. The Hearing Officers shall be chosen from among University personnel of appropriate experience and training, but need not be attorneys. The role of the Hearing Officer throughout these procedures is to assure an orderly, expeditious, and relevant hearing; to assure the development of a complete, fair and reliable record; and to advise the Hearing Committee as to issues of substance and procedure. The Hearing Committee may request the replacement of the Hearing Officer at any time.

(Delete rest of original section.)

2) No member of the same department as a party shall sit on the Hearing Committee. Any party to a dispute may disqualify one member of the Hearing Committee by preemptory challenge. Any party may also seek to disqualify a any member of the Hearing Committee for cause. The Dispute Resolution Committee shall hear and decide any challenges for cause. The Chairman of the Dispute Resolution Committee shall, from among the remaining members of the Dispute Resolution Committee, fill any vacancies on the Hearing Committee created by challenges.

DELETE

(pick up from b) 1) on page 2)

b)

(Res. 84/5) =

b) ~~c)~~ Hearing Committee and
Hearing Officer /cont./

3) When all challenges have been decided and vacancies filled, and as soon as reasonably possible after receipt of respondent's reply, the Chairman of the Dispute Resolution Committee shall convene the Hearing Committee to review the Complaint. If a defendant/moves/objection and if the Chairman of the Dispute Resolution Committee and two members of the Hearing Committee or if all members of the Hearing Committee, majority of the Hearing Committee,

after an opportunity for informal argument by the parties, finds that the complaint does not allege facts sufficient to state a grievance under the Code or that the complaint is based upon evidence or allegations which are substantially the same as those that have been previously heard and decided, or which could have been presented in a previous hearing,

delete —

or that the complaint raises, in whole or in part, issues that are arbitrable only, the

complaint shall be automatically referred to the Dispute Resolution Committee for consideration at the earliest reasonable time. If ten members a majority of the Dispute Resolution Committee including the Chairman and the members of the Hearing Committee concludes that for any of the reasons set out in this section a hearing is not warranted, the complaint shall be dismissed, in whole or in part, and the matters dismissed deemed closed.

Add new section:

4) On the determination that a hearing is warranted, the Hearing Committee shall be convened by the presiding Hearing Officer and establish a schedule for the hearing.

4) 5) No change

Add new section:

6) It shall be the duty of the Hearing Officer to convene promptly the meetings of the Hearing Committee and to preside; to assure the expeditious disposition of the case; to rule on all questions of substance or procedure necessary to the conduct of the hearing, subject to being overridden by a majority vote of the Hearing Committee; to ask questions and to control the development of testimony and of evidence in the record as deemed appropriate; to prepare a draft opinion for the use of the Hearing Committee; and to advise the Hearing Committee in its deliberations on questions of substance and procedure. The Hearing Officer does not vote on the ultimate questions of fact, substance, procedure, or policy. as

b)

E. PROCEDURES FOR IMPLEMENTATION

3. Formal Procedures

b) ~~a)~~ Hearing Committee and Hearing Officer
/cont./

these are acted upon by the Hearing
Committee. The Hearing Officer signs
dispositive orders of the Hearing Committee
only to authenticate them.

Add new section:

7) Members of hearing committees, members
of the Dispute Resolution Committee, and
the parties shall avoid ex-parte communica-
tions bearing on the substance of the
dispute.

3. Formal Proceedings

c)

e) ~~d)~~ Procedure for Hearings

1) No change

2) A grievance procedure is not a formal judicial proceeding. Its purpose is to provide a fair evaluation of the allegation that a right or a responsibility has been violated. ~~In order to achieve that end, the Hearing Committee shall have authority to require the appearance of any material witness who is a member of the University faculty, administration, or staff, and also any other person who is willing to testify; to question parties and witnesses; to exclude matters it deems irrelevant; and to place reasonable limits on arguments, the presentation of evidence, and the questioning of witnesses by the parties.~~

privilege

In order to achieve that end, the Hearing Committee shall have authority to call any material witness who is

The University will make a reasonable effort to facilitate the appearance of witnesses.

3) The procedure at the hearings shall be informal, but shall comply with the requirements of fairness to the parties. The Hearing Committee is not required to comply with rules of evidence applicable in courts of law and may receive any relevant evidence which is not privileged. The Hearing Committee may decline to consider evidence where its probative value is outweighed by considerations of unfair prejudice, confusion of the issues, undue delay, waste of time, or needless presentation of cumulative evidence. The parties shall be entitled to testify on their own behalf, to require the appearance of any material witness who is a member of the University faculty, administration, or staff, and to call any other person who is willing to testify; to present written and other tangible evidence, and to cross-examine witnesses called by other parties. Sworn depositions may be received in evidence at the discretion of the Hearing Committee. A party shall be entitled to inspect and copy in advance of the hearing, any relevant documents in the control of the other party and not privileged, and may offer the documents or excerpts therefrom in evidence.

The parties shall be entitled to testify on their own behalf, to call as material witnesses any member of the University faculty, administration, or staff, and to call any other person who

The University will make a reasonable effort to facilitate the appearance of witnesses.

3. Formal Proceedings

c)

~~e) d)~~ Procedure for Hearings /cont./

4) No change

5) No change

6) No change

7) At the conclusion of the presentation of evidence and argument from both sides the Committee shall deliberate and reach a decision in closed session. In rendering its decision the Hearing Committee shall not substitute its judgment for that of the maker of the decision being challenged but rather it shall determine whether the grievant has established clear and convincing evidence that he/she has suffered a substantial injury resulting from: 1) acts of discrimination prohibited by Federal or local law; 2) the decision-maker's failure to follow the Faculty Code, or Faculty Handbook, or other rules, regulations and procedures established by the University; 3) arbitrary and capricious University actions; or arbitrary and capricious applications of Federal or local statutes and regulations; or 4) University action motivated by prejudicial malice or retaliation for exercise of Code-protected rights.

~~7) At the conclusion of the taking of evidence and the hearing of arguments, the Committee shall deliberate and reach its decision in closed session. The Hearing Committee is not to substitute its judgment for that of the makers of a decision which is being challenged but rather to determine whether a substantial injury has resulted from an action that was arbitrary and capricious or otherwise substantially in violation of the Faculty Code. The vote of a majority shall be determinative.~~

8) ~~WITHIN TEN CALENDAR DAYS~~ The Hearing Committee: Committee shall render its findings and recommendations in a written report which shall state the number of members subscribing to the report and shall include dissenting opinions, if any. This report shall be submitted to the Chairman of the Executive Committee of the Faculty Senate and copies shall be transmitted to the parties and to the Chairman of the Dispute Resolution Committee.

Add new section:

9) The hearing procedures shall be concluded and the Hearing Committee's decision shall be rendered as soon as practicable.

A RESOLUTION TO AMEND ARTICLE III OF THE FACULTY CODE (85/9)

Whereas, the University Administration has disallowed an amendment to Article X of the Faculty Code that would have permitted faculty to maintain a grievance by alleging a colleague's serious misconduct or significant neglect of responsibility, and to bring a complaint thereunder to arbitration; and

Whereas, both tradition and current practice suggest that University faculty, like the members of other professions, be held to self-imposed standards of conduct, therefore:

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY

That the following statement of professional responsibility be inserted (1) as a new Section B under Article III of the Faculty Code, with appropriate re-lettering of the Sections that follow, and (2) on page 20 of the most recent edition of the Faculty Handbook:

Members of the faculty have a duty to notify the appropriate administrative officers of the University of their knowledge of any serious faculty misconduct as a member of the faculty or significant neglect of faculty responsibilities. Although such notification should normally be made to the department chair or to the dean, a member of the faculty may also bring such information about misconduct or neglect to the Vice President for Academic Affairs.

The Committee on Professional Ethics and Academic Freedom

November 22, 1985

FINAL REPORT OF THE SPECIAL COMMITTEE OF THE
FACULTY SENATE TO STUDY THE NATURE AND ROLE OF FACULTY
PARTICIPATION IN UNIVERSITY GOVERNANCE
December, 1985

The Faculty Senate on October 12, 1984, elected this Special Committee and charged it as follows:

- (a) to study the nature and role of faculty participation in University governance;
- (b) to review the activities of the Senate and its standing committees over the past 5-7 years, seeking out a wide range of views on the strengths and weaknesses of the contribution the Senate makes to the University's ability to carry out well its educational mission;
- (c) to look ahead to the chief matters of probable concern in the next decade; and
- (d) to report its findings to the Faculty Senate by October, 1985, along with any recommendations for such changes in structure, focus, or relationships with other bodies, as would strengthen the Senate's capability to contribute effectively to the University community in the years to come.

Since January 1, 1985, the Special Committee has met 9 times, distributed five sets of questionnaires, and interviewed more than 40 faculty and administrators during 13 interview sessions.

Summary of Recommendations

We note at the outset that our inquiry has led us to make proposals whose effect on Faculty governance can best be described as "centralizing." These proposals look, for example, toward a Senate Executive Committee, increased in size from five to seven members, that would assume henceforth a major responsibility for directing and implementing the Faculty's consultative role in University planning and budgeting. In keeping with that responsibility, we also foresee the Executive Committee becoming a "committee on priorities" in these areas of planning and budgeting. Moreover, to achieve better coordination of Standing Committee activity, we will recommend that members of the Executive Committee serve as voting liaison-members of the most active of these committees. At the same time, we will propose to relieve the Executive body of some of its routine duties through its appointment of a Permanent Subcommittee on Committees. The latter will also begin at once (if our recommendation is accepted) to study the past and present activities of the less productive Standing Committees with a view to determining whether they should be continued. In the interim, we will recommend that the Senate, while retaining the consultative jurisdictions specified in the names of its Standing Committees, not be obliged to activate (some of) these Committees in a given year. Finally, we will recommend for adoption certain procedures by which the Faculty Senate and the Faculty Assembly may carry out its Code-protected right to be consulted in the selection of the next President of the University.

These recommendations, along with others of lesser import, seek changes that we believe will strengthen the Faculty's role in University governance, enhance Faculty participation in University affairs, and prepare the Faculty Senate for the impending change of University presidents. A complete list of recommendations appears as an appendix to this Report.

The Focus of this Report

Although our Committee has studied the "role of Faculty participation in University governance," we do not seek to re-define that role. We conclude that the Faculty Senate will continue to make recommendations to the Administration in all matters of faculty concern, while enlarging the consultative roles allotted to various organs of Faculty governance by the Faculty Code and by the Faculty Organization Plan. We believe that the broad language of these documents leaves ample opportunity for the Senate and the Assembly to expand their consultative functions as the need may arise. We sense no sentiment among the Faculty to re-structure any of the fundamental relationships already defined. (No longer, for example, is there support for putting Faculty members on the Board of Trustees or for admitting students to the Faculty Senate.) In sum, we believe that whatever new objectives the Faculty may devise, the machinery for attaining those objectives is already in place. Nor have we felt it necessary to re-state the Faculty's well-established commitment to using its governance machinery to achieve excellence for the University, improve fringe and other benefits, sustain academic freedom, and safeguard its consultative role in all matters relating to teaching and research.

Our report focuses on the Faculty Senate because of its centrality to the structure of faculty governance, even though the term "governance" spans a range of faculty participation in decision-making that stretches from the contributions of those who serve on Trustee Committees to those who exercise self-governance at departmental level.

Responses to Questionnaires.

We start with the Faculty's perceptions of the Senate derived from questionnaires. (See Chart A.) From their responses Faculty appear to perceive a Senate that has succeeded by cooperation rather than confrontation in establishing a fruitful relationship with the Administration. The Senate is seen to have performed especially well in disposing of Faculty grievances and in sustaining academic freedom. Moreover, these perceptions of the Senate's success are informed rather than impressionistic. Chart B in the Appendix shows that a large percentage of the faculty "usually" read the Senate minutes and/or resolutions, and an even larger percentage at least "scan" them.

When Faculty are asked to specify what should be the Senate's primary concern for the future, "faculty development and research" top the list. The primacy given to "research"

undoubtedly reflects the personal priorities of individuals rather than an understanding of the Senate's historic limitations in this area. That the Senate should concern itself more fully with "budget matters" ranks proportionately higher in the priorities of those who have had governance experience (i.e., served on Senate committees), than with members without such experience, who feel the Senate should concentrate on raising salaries. Governance "outsiders" also seem proportionately more concerned with "faculty-administration" relations than do insiders. Both groups show about the same (high) interest-level in appointments and promotions policies.

The Centrality of "Budgetary" Concerns

Although other interesting conclusions may be drawn from the questionnaire responses, the Self-Study Committee early decided that the Faculty's major areas of interest could be summed up as "budgetary." If the questionnaires spoke decisively, they said that the Faculty want more University funds diverted in their direction, and expect the Senate to work to that end. Specifically, Faculty want more money for themselves in the form of higher salaries, for their work in the form of increased research funds, and for their departments in the form of greater allocations for appointments and promotions.

During interviews the Committee repeatedly asked Faculty by what means they felt the Senate could take an effective role in budgetary decision-making. The answers we received showed neither consensus nor optimism. Indeed, the more experienced the interviewee, the more pessimistic the prognosis. Such pessimism notwithstanding, the Committee believes that budgetary decision-making is not beyond the Faculty's capacity to exert an influence.

Each area of Faculty budgetary concern--whether for salaries, or research, or appointments and promotion--presents different problems.

The size of annual salary increases, as long as such increases continue and as long as the percentage-increase bears a tenable relationship to the University's revenue situation in any given year, seems best left to the Administration to determine. The market conditions that produce salary variations among schools and disciplines make it unreasonable to believe that the Senate, or any organ thereof, can do more than ask for an explanation of the over-all

percentage increase from year to year. Moreover, salary matters affecting only one school lie outside the Senate's jurisdiction.* In this light, the mechanism by which the Administration presently consults with the Senate Committee on Appointment, Salary and Promotion Policies respecting the annual percentage-increase appears to be satisfactory. This is not to suggest, however, that the Senate should not seek to enlarge its influence in securing higher salaries.

Although University funding of Faculty research has recently doubled, we detect among the Faculty a much greater demand for support than is currently being provided. During interviews, we tried to elicit suggestions for enlarging the role of the Senate's Standing Committee on Research. One proposal (for which there was modest support) urged that this Committee be allocated a small amount of money for distribution to deserving Faculty. Or alternatively, that the Committee monitor the fund-granting operations of the University Committee on Research. On further discussion, we found neither proposal desirable. Subsequent interviewees made it plain that to have the Senate Committee duplicate the fund-distribution work now being done in a highly-professional and generally equitable way by the University Committee would be just that: duplication. And to have the Senate Committee monitor the University Committee would constitute an unseemly setting of Faculty to watch Faculty.

We cite the doubts we found directed at the Research Committee to illustrate the need for the Senate to undertake a thorough-going review of the functions and purposes of its Standing Committees. (See subsequent recommendations.)

Meanwhile, we urge that the Executive Committee exert its influence at the top of the University structure to increase funding for faculty research. The high priority which the Faculty assign to obtaining funds for research strongly suggests that the Executive Committee make this its own high priority.

We also urge that the Executive Committee seek to be consulted more fully and in advance of those planning and budgetary decisions which relate to plant and facilities. The Faculty's interest in the University's physical environment, especially as projected changes in that environment may affect the quality of teaching and research, suggests that prior consultation in such matters is appropriate.

* Article III-1-3 of the Faculty Organization Plan restricts the Senate to the consideration of "matters of concern or interest to more than one college, school, or division."

To suggest endowing the Executive Committee with primary responsibility for budgetary oversight is to raise the question of what role, if any, the Senate Committee on Fiscal Planning and Budgeting should play in the future. The latter, in the past, has functioned spasmodically. Some members or former members felt that the Fiscal Planning Committee had exerted a perceptible influence on University budget decisions. Others saw it as having generally failed of influence. Our Committee concluded that its performance has been uneven, and its position peripheral to the budget process.

The reasons for having the Executive Committee assume the responsibilities of the Fiscal Planning and Budgeting Committee we found persuasive. The Executive Committee has regular, year-round access to those parts of the Administration where budget and planning decisions are made. It has the authority of recognized Faculty leadership. Moreover, the importance which the Faculty attach to budgetary matters dictates that this oversight function be conferred on their most visible and powerful organ. We recommend, therefore, that the Executive Committee assume the functions and responsibilities of the Fiscal Planning and Budgeting Committee, and that the latter be abolished.

Since the appearance of our Preliminary Report in October, colleagues have expressed concern at the potential for overburdening members of the Executive Committee, were the foregoing recommendation to be implemented. While concurring in perceived inadequacies of the present Standing Committee on Fiscal Planning and Budgeting, they would keep the functions of this committee alive and separate. In response to this concern but in keeping with the major thrust of our Report--which is to centralize more fully the structure of Faculty governance--we would modify the foregoing recommendation as follows: We recommend that while the responsibility for Faculty consultation in matters related to planning and budgeting be firmly placed on the Executive Committee, the latter should establish a Permanent Subcommittee on Planning and Budgeting.

This Subcommittee should normally include those members of the Faculty Senate elected to serve on any University Committee having jurisdiction in the areas of planning and/or budgeting.* We envision this Subcommittee becoming the eyes

* These would include the two members of the Senate recently elected to the Advisory Committee on Implementation of the Report of the Commission for the Year 2000; might also include any Senate members subsequently elected to serve on the University Budget Committee.

and ears of the Executive Committee in all matters related to planning and budgeting. Specifically, it should:

- track developments in, and recommendations from, the recently-established Advisory Committee on Implementation of the Report of the Commission for the Year 2000; and likewise monitor the activities of any permanent planning council which may be established;
- confer frequently with the University Budget Director; and
- serve as a conduit to the Executive Committee for Faculty views on all matters related to planning and budgeting.

In making this recommendation, we envision an enhancement, as well as a shift in function. The Executive Committee, we believe, should be accorded a wide degree of operational independence in its efforts to gain a larger role for Faculty in the University's budgetary and planning processes. It should, on its own initiative, seek to receive long-term budgetary information on a regular basis, encourage greater openness on the part of the Administration, and, if necessary, boldly represent what it believes to be the Faculty's views on planning and budgetary issues which may arise on short notice.

We learned during interviews with Faculty that although the Administration may believe that it currently imparts sufficient budgetary and planning information to the organs of Faculty consultation, there is a widespread perception that it does not. We sense among those interviewed a strong feeling that the Senate and its Committees need to be able to gauge more fully the fiscal impact of resolutions they offer. We note, for example, that any responses the Senate may make to the Report of the Commission for the Year 2000 ought to be informed by budgetary implications. Indeed, we often heard expressed the view that the Senate should not pass any resolution-of-recommendation without understanding its budgetary relationship to other Faculty-related objectives. Without "cost labels" or priorities, the Senate has no sense of which objectives might be funded first, second, third, or not at all. Thus, in addition to securing a regular flow of budgetary information, we recommend that the Executive Committee hereafter act as a "committee on priorities," generating a scale of faculty preferences for planning and budgeting.

Any sorting out of priorities requires that Faculty be represented more fully in the closely related processes of planning and budgeting. Recently the responsibility for University-wide planning has been assigned to an "Advisory Committee on Implementation of the Report of the Commission

for the Year 2000" (hereinafter the Implementation Committee). On October 11, 1985, two members of the Faculty Senate were elected to serve on this Committee, thereby assuring a Faculty role in the overall planning process for the foreseeable future. We find it inconceivable, however, that University plans will proceed without accompanying budgetary decisions. On the budget side, there exists a University Budget Committee, comprised of ten top-level administrators, two students, but no faculty.* We are told that the Budget Committee meets only three or four times a year, and are led to believe that it plays a passive rather than a formative role in budgetary decision-making. Despite its unpromising aspect as a vehicle for Faculty input, it appears to be the "only show in town." The Senate, we believe, should request Faculty membership on the Budget Committee. And because we perceive planning and budgeting to be inseparable, we urge that the same two Faculty who serve on the Implementation Committee serve also on the Budget Committee. To this end we do not accept the argument heard in some quarters that the University-wide mandate of the Budget Committee precludes Faculty membership. Rather, we hold that colleagues--like those who served on the Commission for the Year 2000--are capable of rising above parochial (school or departmental) self-interest. We recommend, therefore, that the Faculty Senate request membership on the University Budget Committee for those two of its members who are elected to serve on the Implementation Committee, or who may be elected to serve on any future planning council.

while recognizing a need for some element of confidentiality, persons we interviewed argued persuasively that budgetary decisions, now usually made public after the fact, should be aired more fully and more openly in their formative phases. Deans as well as Faculty should have earlier notice of projected expenditures affecting the academic enterprise. For want of full and exact information, we were told, some few who become privy to the decisional process may affect its result in ways that depart from what was earlier thought to have been a consensus respecting priorities. We recommend, therefore, that the University Budget Committee be asked to conduct hearings or information sessions throughout the budget cycle with members of the Senate Executive Committee in conjunction with the Academic Deans.

That the Faculty be consulted in University-wide budgetary decisions is at least implicit. That is, a loose but reasonable reading of the Code and the Faculty Organization

*Administrative members include the President, Provost, Vice President for Academic Affairs, University Planning Officer, Vice President/Treasurer, Vice President/Administration and Research, Vice President/Development, Vice President/Medical Affairs, Comptroller, Director/News and Public Affairs

plan implies that where Faculty have a Trustee-approved right to be consulted in matters of academic policy, their consultative role extends to the budgetary ramifications of such matters. At the divisional level, by contrast, the Faculty's consultative role in budgetary matters has been made explicit. Eleven years ago Senate Resolution (74/11) specified unequivocally that "the faculty of each, school, college, and division elect a standing committee of its faculty who, with its dean as chairman, shall advise the dean on all matters relating to program planning and budget policy."

In no school, to our knowledge, have such planning and budget committees been established. The creation of such committees may, at the time, have been seen as contingent on the Faculty's willingness to set guidelines for its own productivity. In 1977 the Senate debated and ultimately recommitted a proposal that would have established such guidelines. Whether or not these two issues were linked in the Faculty/Administrative thinking of the late 1970's, they are clearly so today. President Elliott has informed us that he will encourage the deans to create planning and budget committees if, as a concomitant, the Administration can be assured that one of their functions will be to assist the deans in laying down guidelines for Faculty productivity. The President's proposal, we believe, is an appropriate juxtaposing of rights and responsibilities. That is, if the Faculty are to have a voice in the budgetary decisions of their schools, they incur a corresponding duty to support sound budgetary practice. Specifically, they should share with deans and department chairs a responsibility for maintaining the productivity levels of Faculty, correcting such aberrations as overly light teaching loads unaccompanied by scholarly activity. We recommend, therefore, that the Faculty Senate reaffirm Resolution 74/11, with the additional proviso that divisional committees advisory to the deans "on all matters relating to program planning and budget policy," be charged to assist the deans in establishing guidelines for Faculty productivity.

Executive Committee:

The additional burdens which our recommendations thus far envision placing on the Executive Committee will, we believe, require enlarging the membership of that Committee. Not only will a larger Executive Committee serve to distribute these new responsibilities more equitably, but the enlargement will also repair a longstanding representational defect. The Executive Committee's present membership of five has had the effect of excluding from representation one, sometimes two, of the major academic divisional units

of the University. While some have contended that to increase the size of the Executive Committee may make it unwieldy or create quorum problems, we are not persuaded that a committee of seven would be less wieldy than a committee of five; nor, given the excellent record of past attendance, that a somewhat larger Executive Committee would lack for a quorum of four (now three). Finally, because we will also recommend much closer ties between members of the Executive Committee and the major Standing Committees, we recur to the need to distribute more equitably the burdens of such liaison among a larger committee membership.

In light of the foregoing, therefore, we recommend that the Executive Committee be enlarged to a membership of seven persons who shall, by the already-established procedures for nomination and election, represent the Columbian College of Arts and Sciences, the National Law Center, the School of Education and Human Development, the School of Engineering and Applied Science, the School of Medicine and Health Sciences, and the School of Government and Business Administration; and that the seventh seat alternate annually between Senate representatives of the School of Public and International Affairs, and the Graduate School of Arts and Sciences; further, that a quorum consist of four members.

The desirability of developing a fuller flow of information between the Executive Committee and various Standing Committees would appear to be self-evident. Too often the Executive Committee learns of the activities of Standing Committees at an advanced stage of their discussion. For the Executive Committee to guide, coordinate, and prevent overlap, it needs to know on a more continuing basis what is transpiring at the Committee level. We considered briefly proposing that members of the Executive Committee be designated to chair the most active Standing Committees. On further consideration, however, we concluded that such "double-duty" would impose an excessive burden. Believing that a voting ex officio relationship will suffice to promote the necessary flow of information, we recommend that members of the Executive Committee, except the Chairman, serve as ex officio and voting members of the Committees on Educational Policy; Appointment, Salary and Promotion Policies; Professional Ethics and Academic Freedom; Administrative Matters as They Affect the Faculty; and the Joint Committee of Faculty and Students; and as ex officio and voting members of such other Standing Committees as the Executive Committee may deem appropriate.

Also to facilitate better communication and greater continuity within the governance structure, we urge that Senate Resolution 77/2 be superseded. This resolution calls on outgoing chairs of Senate Committees "to convey

the 'live' records and correspondence of their committees to their successors." This conveyance has apparently occurred so rarely as to suggest that the Faculty Senate Office ought rather to be charged with collecting the records and correspondence of outgoing chairs and seeing to it that such materials are placed in the hands of their successors. We recommend, therefore, that the Coordinator of Senate Activities secure routinely from all outgoing chairmen of Senate Standing Committees such records and correspondence as may be appropriate to convey to the successor chairmen, and to convey these documents thereto as soon as copies have been reproduced for storage in the permanent files of the Faculty Senate Office.

Senate Standing Committees:

Many whom we interviewed felt that we should address some of the shortcomings in the Senate's committee system. As the interview process went forward, we found ourselves trying to elicit answers to the following questions:

Does the Senate now have too many Standing Committees?
(14)

Should relatively inactive Committees be abolished?

If so, could the occasional business transacted by these inactive Committees be consigned to ad hoc Committees?

Should an individual's election to the Senate be burdened by the likelihood of having to chair a Standing Committee?

Correspondingly, is it necessary or even desirable that Committee chairs be selected from among the elected members of the Senate?

As to whether the Senate has too many Standing Committees, the answer is probably yes. Chart C in the Appendix to this Report ranks the existing Committees in terms of "passed resolutions" they have sponsored over the last ten years. By this measure, five Committees can be described as "high yield," six "medium yield," and four "low yield." (Two other low-yield Committees have recently been discontinued.)

The sponsorship of successful resolutions, however, is not the sole measure of a Committee's usefulness. Because some Committees, like that of Student Financial Aid, appear to be engaged in low-profile but nonetheless important "operational" activities, we became increasingly reluctant

to single out any Committee for extinction, except that of Fiscal Planning and Budgeting whose function we are recommending be transferred to a permanent subcommittee of the Executive Committee.

At the same time, we found evidence that some Standing Committees may have generated make-work resolutions, perhaps to justify their continuance. Resolutions of appreciation, for example, scarcely put to good use the faculty time required to call a meeting into session. In a more general way, we concluded that the Senate's reputation was not enhanced by the continuance of Committees perceived to be dormant.

Our information about these medium- and low-yield Committees remains fragmentary and largely based on hearsay. Nor is the documentary trail they have left conclusive as to their worth. Short of undertaking a full-scale study of each of these Committees, for which we have neither the time nor the resources if we are to meet the Senate's deadline for our Report, we urge that each of these medium- and low-yield Committees be examined for its past record of accomplishment, the potential of its charge, and its prospects for the future.

This examination of Standing Committees, we believe, should be assigned to a new Permanent Subcommittee on Committees, which should also be charged to assist the Executive Committee in its annual presentation of nominees for election to Standing Committees. (We note, parenthetically, that the Executive Committee has always served as the Senate's committee on committees, its members spending many hours making up lists of nominees for committee membership from the names of Faculty who volunteer. Such activity, we believe, has diverted the Executive Committee from more important business. Moreover, the enlarged role for the Executive Committee which the recommendations of our Report envision suggests that it be relieved of the routine aspects of this burden.)

To accomplish both of these ends, we recommend that the Executive Committee appoint a Permanent Subcommittee on Committees, not necessarily from its own membership, whose function shall be:

- (a) to begin at once to review the purposes, accomplishments, and utility of those Standing Committees perceived to have been of low- or medium-yield in their contributions to Faculty governance; to show cause at the Senate meeting of _____, as to why and under what new charter, if necessary, certain

Committees should be continued or, alternatively, discontinued; and to maintain a continuous review thereafter of the desirability of retaining any Standing Committee which the Permanent Subcommittee believes has lost its utility; and

- (b) to assist the Executive Committee in preparing lists of nominees for election to membership on Standing Committees of the Faculty Senate.

(We leave open, at this time, the question of how much of the language of the foregoing charge ought to be written into the Faculty Organization Plan.)

To accord the Senate flexibility in the reform of its Committee system, we also recommend that the Senate Bylaws be amended in such a way as to retain intact the Faculty's right to be consulted in those areas of University governance which are designated by the names of Senate Standing Committees while permitting the Senate the option, from year to year, of activating these Committees, or allowing them to be dormant.

Special Committees and Committee Chairmanships

Our Committee discussed at great length the merits of what we came to call "adhockery." We found that a good argument could be made for coupling a reduction in the number of Standing Committees with a change in the Faculty Organization Plan that would encourage the Senate to make more frequent use of special, or ad hoc, committees. Thus, if an issue arose that required intensive study, the Senate might assign it to a committee of Faculty selected for their expertise and get a better result than if that issue were handed either to one of the already-overloaded Committees (like ASPP, PEAFF, or Educational Policy), or to a Committee that was nearly moribund. But because the Senate already practices such expedients, we saw no need to foster them by recommending changes in the Faculty Organization Plan. We also pass along the warning, often heard, that to place too great a reliance on Special Committees might lessen the prestige of existing Standing Committees. We do note, however, that if certain traditional areas of Faculty interest are left uncovered by the discontinuance of low-yield Standing Committees, the election of Special Committees may become a more frequent means of bridging the gaps.

The interlocking nature of our recommendations is perhaps best illustrated by the issues we encountered when we approached the question: Should an individual's election to the Senate be burdened by the likelihood of having to chair a Standing Committee?

A Senate whose 26 members are expected to chair 14 Committees (recently 16) presents a prospect of chairing duties which, we felt, may have deterred some Faculty from standing for election. Moreover, the difficulties of matching newly-elected Senate members with the Committee chairmanships they wanted, or were fitted for, or were not already held by an incumbent, suggested that the Senate might be encouraged to reach outside its elected membership for chairs whose experience and expertise would better fit the leadership needs of its rather specialized Committees.

Although we found considerable support for the selection of Non-Senate-Member Chairmen, we were ultimately persuaded that we should not--indeed, need not--recommend such innovation. Should not, because a Committee Chair who is not a member of the Senate clearly has neither the credentials nor kinds of access to Senate machinery that an elected member enjoys and is able to make effective. Need not, because the weeding-out of low-yield Committees that we anticipate will mean fewer chairmanships; and thus reduce an individual member's liability for chairing a Committee. Moreover, that the Senate already resorts on occasion to the election of "acting" chairmen from outside its membership would seem to make this a non-issue.

Size of Faculty Senate:

In our Preliminary Report we recommended enlarging the Faculty Senate from 26 to 31 members. Now, in our Final Report, we withdraw this recommendation. We thought at first to ground the case for enlargement on two altered conditions: (1) that if, as we proposed, the Executive Committee be increased from 5 to 7 members, the size of the Senate itself might be increased proportionately; and (2) that the disparate growth of certain school faculties might be appropriately reflected by the addition of a few new seats. We assumed that if the Medical Faculty continued to be excluded from any new calculation of proportionality (as obviously it had been when seats were allocated 20 years ago), the addition of five new seats spread among CCAS (2), SGBA(2), and SEAS(1) would recognize the growth of faculty in the latter two, while roughly preserving the same minority position of Columbian College. (See Chart D.)

This proposal has been met with the argument, forcefully articulated in some quarters, that if Senate seats are to be reallocated or increased, the principle of proportional representation should be strictly adhered to. When we considered what the practical consequences would be, we concluded that our colleagues would be as reluctant to follow the logic of that principle as were the "founders." A strict adherence to proportional representation would give the combined faculties of Columbian College and the Medical

School 74% of the seats in a Faculty Senate, no matter what its size. Of the number of seats within this bloc, the Medical Faculty would predominate by a ratio of 5 to 3.

A spokesman for the Medical Faculty makes clear that (1) his colleagues value the equal representation they now enjoy with that of other professional schools, but (2) would claim the full benefit of the proportional principle if their representational status were diminished by adding seats for the faculties of other professional schools. At the same time, the Medical Faculty appear to have no desire to increase the size of their Senate delegation beyond that which now exists.

It was suggested that a moderate increase in the Medical Faculty's representation could be effected without drastically upsetting the present distribution if only the Clinical Faculty (numbering about 180) were to be counted as electors. This would mean, however, that another 320 physicians who hold faculty appointments but work off-campus would have to be "defined out" of their right to be represented. To disfranchise them would raise even more serious threats to principle. Moreover, we are told that this group is so deeply uninterested in University affairs that even the Medical School Senate can rarely achieve a quorum.

In retreating from our earlier recommendation, we note that if proportionality cannot be implemented without creating serious problems, neither is it the only acceptable means of determining representation. The notion of equal representation for constituent units is enshrined, as we well know, in the election of U.S. Senators. Moreover, it is this principle that our Faculty Senate has more nearly approximated. Therein each professional school is equally represented by three votes, and Columbian College has nine. To the extent that the Columbian College Faculty is internally divided into three divisions (humanities, social sciences, math/science), their nine votes can be viewed as a rational extension of the principle of equality.

Because the original allocation of seats-to-schools was clearly the product of pragmatic compromise, and never intended to follow the principle of proportional representation rigorously, we urge our colleagues not to tinker with this aspect of an "ancient institution" which has served them well.

Continuity vs. "New Blood" in Senate Membership

By a three-to-one majority Faculty who returned questionnaires felt that a limit of two consecutive terms should be placed on an individual's election to the Senate. What this majority supported, in effect, was to return to the limitation that was abandoned in 1976. Then as now, the rationale for a two-term limit (four years in all) is to encourage more Faculty to participate in University governance or, conversely, to discourage the election of the same persons year after year.

Our follow-up interviews revealed how mistaken our Committee might have been to have based a recommendation on questionnaire-responses alone. The point was made in interviews that various Faculties view Senate service quite differently. Whereas some Faculties might see positive merit in limiting re-election, others find it difficult to persuade colleagues to serve or are content to re-elect those whose past service has proved satisfactory. To accommodate these differing perceptions, we concluded that any limitation on the number of consecutive terms an individual might serve in the Senate should be left to "local option." We recommend, therefore, that Article III. of the Faculty Organization Plan be amended to allow the several Faculties the option of placing restrictions on the number of consecutive terms to which their Senate representatives might be elected.

Staff Support:

Faculty we interviewed, while generally appreciative of the Administration's adherence to sound fiscal policies, nevertheless frequently expressed the view that Administrative offices seem to be top-heavy with support staff. This perception was less supported by proof than by anecdote. Still, to professors who sometimes lack for secretarial services, the appearance that Administrative offices seem to have an abundance of secretaries and clerk-typists leads them to suppose that the academic departments are provided for at a lower level of priority. We make no formal recommendation in response to this perception because a remedy, if needed, lies outside the area of faculty governance. We suggest, however, that a study might be undertaken to compare the University's expenditures for administrative staff support with those of other universities.

Funding for Special Senate Projects:

Although some we interviewed felt the Administration to be over-staffed, others saw a shortage of staff and funding for those administrative operations closely associated with the Faculty's interests. A case in point is the unsystematic way in which special projects of the Faculty Senate depend on ad hoc funding. In the past, calls have been made on the Administration to pay for travel, secretarial, and other expenses occasioned by the needs of various Senate inquiries and surveys. Because such projects benefit the University community as a whole, we believe that funding them, insofar as their costs can be anticipated, should be regularized. We suggest that a reasonable figure for expenditures of this sort can be estimated from what has been spent in the past. We recommend, therefore, that the Executive Committee consider the desirability of requesting the Administration to include in the annual budget for the Faculty Senate Office an amount, based on past expenditures, to be designated for funding special projects of the Faculty Senate.

Matters Relating to the Forthcoming Presidential Succession

The Faculty Assembly must soon elect a committee to advise and consult with the Trustees in the selection of a successor to President Elliott, now age 67. Faculty who were interviewed expressed both optimism and concern when they spoke to the Faculty's forthcoming role in the presidential succession. They seemed reassured, on one hand, by the confidence they had come to place in the stewardship of the Trustees and by the general satisfaction that has marked their relations with President Elliott over the past twenty years. Their concern lay partly in the failure of the Faculty Code to define more precisely the procedures for Faculty participation in the presidential selection process, and partly in the recollection, still vivid in the minds of many, that the Faculty Consultative Committee elected in 1964 had met with great frustration.

Our Committee offers the following account of the presidential succession in 1964-65. A brief history of those events will, it believes, suggest certain preparatory or precautionary measures the Faculty might undertake to assure that, this time, it will be seen in retrospect to have played a meaningful role in advising and consulting.

A Brief History of the Faculty Role in the Presidential Succession, 1964-65

When President Thomas Carroll died unexpectedly in the summer of 1964, the Trustees invited the Senate Executive Committee to "serve as an interim committee to aid and advise the Board of Trustees."¹ Then as now, the Faculty Code provided only that:

The Faculty Assembly shall elect a committee to advise and consult with the Board of Trustees or appropriate members thereof in the selection of a President.²

The Executive Committee, noting the "absence of specific code procedures for this purpose," took the liberty of nominating a faculty slate of ten persons. The Faculty Assembly meeting on September 16 approved the Executive Committee's arrogation of the nominating function and proceeded to elect the slate of ten.³

Moving quickly, the Faculty Consultative Committee on September 24 sent the Trustees the text of six criteria it felt should be used in screening presidential applicants. Because the Board had by this time appointed its own Special (Search) Committee, the Faculty group asked for a joint meeting to exchange views "as to aims and procedures."⁴

The two committees met jointly on October 22. In its first interim report, dated November 3, the Faculty Committee noted that well before this meeting, Board Chairman

¹Annual Report of the Executive Committee of the University Senate, 1964-65.

²"Procedures for Implementation of the Faculty Code," Section C, subsection 5, Faculty Code (1980 edition), p. 21.

³Minutes, Faculty Assembly, September 16, 1964. It may be worth noting that the Executive Committee provided for nominations from the Assembly floor. After one such nomination and two others (withdrawn), the Assembly elected the original slate. A motion to reduce the size of the Consultative Committee to eight was defeated. Ibid.

⁴Memorandum, Committee for the Selection of a President of the University to the Board of Trustees, September 24, 1964.

Newell Ellison had given it the names of approximately 150 applicants, requesting that the list be narrowed to "about 10 outstanding nominees." Applying its own earlier-drafted criteria, the Faculty Committee later reported that it had carried out an "intensive" check of 30 applicants, and had by the time of the joint meeting cut this list to nine persons "who seem outstanding." Having received the Faculty's nine nominees, Mr. Ellison took the occasion of the joint meeting to urge the Trustee Committee (which he also chaired) "to proceed in the same manner to prepare a list of outstanding prospects." This joint meeting of October 22 ended on a note of urgency expressed in the hope that a new President might be installed by spring semester, 1965. Thus far, the Faculty Committee believed that it had been shown "every courtesy and cooperation."⁵

The Faculty Committee first signaled its "distress" when on February 9, 1965, it reported a "lack of communication, since our last report, between the full Faculty Committee and the full Committee of the Board." As a result, no orderly procedures had been developed for continuing the selection process. Despite these misgivings, the Committee said that it was still able to exchange information with Mr. Ellison, and was still meeting frequently to interview candidates. Moreover, Chairman Ellison had assured them of being "consulted in any change of leadership, either temporary or permanent."⁶

In mid-May the Faculty Committee reported briefly that Mr. Ellison expected his Trustee Committee to be "in a position" to recommend a candidate to the Board at the latter's June 5 meeting. Despite this evidence that it had been overtaken by the activity of the Trustee Committee, the Faculty Committee relayed assurances (presumably received from Mr. Ellison) that it would have "ample opportunity to evaluate and to express its recommendations concerning any choice which may be proposed." (The wording of this clause shows two alterations from the original. It may be suggestive that originally it read: "ample opportunity to evaluate and to express its conclusions concerning any choice which may be made."⁷)

⁵Interim Report of the Faculty Committee to Advise and Consult with the Board of Trustees on the Selection of a President of the University, November 3, 1964.

⁶Interim Report No. 2, February 9, 1965.

⁷Interim Report No. 3, May 19, 1965.

The consultative process broke down most visibly when the Faculty learned on June 5 that the Trustees that day had appointed a new President in the face of the Faculty Committee's adverse recommendation. The Faculty Assembly met in special session two days later to hear its Committee Chairman Thomas Brown relate what had transpired. Brown reported that the Faculty Committee, alerted to the impending choice, had conveyed three resolutions to the Trustee Committee at a joint meeting on June 4. By a vote of 7-0 with 3 abstentions, it had "recommended against the selection of Mr. Elliott." A second resolution admitted that the Faculty Committee had "no candidate at this time" and urged that the search be continued. Thirdly, if the search were continued, it asked that John Anthony Brown, then Dean of Faculties, be appointed Acting President. When the Trustee Committee responded to these resolutions with the view that Dr. Elliott "fit the bill best of all," the Faculty Committee asked for and received permission to air its position to the full Board.⁸

The Special Faculty Assembly, having heard this report, debated what response it should make. On one hand, the Assembly found itself unwilling to "greet its new President, Dr. Elliott, and assure him of its hearty cooperation." But neither could it agree to find "Dr. Elliott unacceptable for the presidency of the George Washington University." Resolutions to these effects were both tabled. The meeting ended with a resolution that did establish a Committee of Inquiry charged "to ascertain the facts and make reports to the Faculty Assembly in all cases in which the Board of Trustees does not see fit to follow the recommendations of the Faculty Assembly"⁹

When the Assembly met the following September, the Committee of Inquiry accompanied its findings with the recommendation "that the Faculty welcome Dr. Lloyd Elliott." (President Elliott did receive the Faculty's assurances of its "hearty cooperation" in a memorandum dated September 15, 1965.)¹⁰

⁸ Minutes of a Special Meeting of the Faculty Assembly, June 7, 1965.

⁹ Ibid. Three faculty served in this inquiry: Reuben Wood, Wolfgang Kraus, and Forrester Davison.

¹⁰ Letter, O. S. Colclough, Acting President, to Lloyd H. Elliott.

The Committee on Inquiry prefaced its report with a strong general criticism of the procedural difficulties under which the Faculty Consultative Committee had operated. It held that the existing procedures for "advising and consulting" had not permitted "adequate opportunity for exploring issues with the Board, for supporting the Faculty position, and for achieving a meeting of minds."¹¹

The Committee of Inquiry then identified seven areas in which the consultative process had been broken or disrupted:

Infrequent Joint Meetings:

The Faculty and Trustee committees had met only twice between October and April, then twice in May, twice in June. Attempts to maintain communication through Board/Committee Chairman Newell Ellison were described as "inadequate."

No Agreed-upon Criteria:

The Trustee Committee did not at any time either accept, or reject the Faculty Committee's draft criteria of September 24, 1964. Finding: the failure to agree on the qualities and credentials of the candidates being sought was part of a larger failure of communication.

No Agreement on the Weight to be Given to Faculty Disapproval:

While the Faculty Committee recognized the full legal authority of the Trustees to make the appointment, it assumed that "any reasoned disapproval on its part would contribute a major obstacle to the selection of a particular candidate." Finding: only under this assumption could the Faculty Committee's function be deemed meaningful.

Lack of Candor:

During the May-June period, "the communications from the Chairman of the Board to the Faculty Committee were lacking in candor." The Committee of Inquiry expressed the view that President Elliott had been put in "a very embarrassing position" when he was allegedly offered the presidency without being told of the Faculty Committee's adverse recommendation.

Lack of Information from the Trustee Committee:

The Faculty Committee was unable to find out which candidates were under the Trustee Committee's active consider-

¹¹ Report of the Special Committee of Inquiry of the Faculty Assembly, made to the Faculty Assembly, September 15, 1965.

ation. From the outside, "the process of selection appeared to have come to a dead end early in the month of May." Finding: such lack of information made the Faculty Committee "appear to be somewhat of an outsider in the selection process."

Out-of-Channels Advice to the Board:

Individual members of the University community sensing the Faculty Committee's peripheral role began to give advice directly to the Board. Such out-of-channels communication further diminished the authority of the Faculty Committee, and "constituted improper group pressures."

Distortion and Misrepresentation by the Washington Press:

The Committee of Inquiry concluded that "distorted" editorials and a "disquieting lack of responsibility" in newspaper reports had misrepresented the University's situation both before and after the Board voted. The Committee found it "plausible," though admittedly "oversimplified" to believe that, given the "connection between key members of the Board of Trustees and two leading Washington newspapers," the latter had become "an instrument in the relations between the Trustees and the Faculty."¹²

Recommendations for the Forthcoming Presidential Selection:

if the foregoing narrative conveys a central message, it is that members of the Faculty Consultative Committee ought to have been more fully and more closely included in the search activities of the Trustee Committee. The misunderstandings of 1964-65 almost certainly resulted from having two committees following parallel courses. That these committees soon diverged into separate perceptions of criteria, deadlines, and procedures was perhaps inevitable.

Asked to make recommendations, the Self-Study Committee, after lengthy consultation with colleagues, concludes that in the next instance the Faculty must address its expectations to the Trustees well in advance of the event. The least formal approach would be to have the Senate Executive Committee simply seek agreement from the Chairman of the Board as to how the Faculty Committee's role will be exercised. Or, more formally, the Faculty Assembly might try to define the Faculty's role more fully by proposing amendments to the Faculty Code.

¹² Ibid.

Respectfully submitted,

P. Hill

Peter P. Hill, Chairman
Special Committee on
Senate Self-Study (Governance)

Committee Members:

Marie M. Cassidy, Professor of Physiology
Edward Della Torre, Professor of Engineering
Lilien F. Robinson, Professor of Art
David J. Sharpe, Professor of Law
Christopher W. Sten, Associate Professor of English
Edwin L. Stevens, Professor Emeritus of Speech

Appendix

List of Committee Recommendations in Order of their Appearance

- (1) That the Executive Committee of the Faculty Senate assume the functions and responsibilities of the Fiscal Planning and Budgeting Committee, and that the latter be abolished.
- (2) That while the responsibility for Faculty consultation in matters related to planning and budgeting be firmly placed on the Executive Committee, the latter should establish a Permanent Subcommittee on Planning and Budgeting.
- (3) That the Executive Committee of the Faculty Senate hereafter act as a "committee on priorities," generating a scale of Faculty preferences for planning and budgeting.
- (4) That the Faculty Senate request membership on the University Budget Committee for those two of its members who are elected to serve on the Implementation Committee, or who may be elected to serve on any future planning council.
- (5) That the University Budget Committee be asked to conduct hearings or information sessions throughout the budget cycle with members of the Senate Executive Committee in conjunction with the Academic Deans.
- (6) That the Faculty Senate reaffirm Resolution 74/11, to wit, "that the faculty of each school, college, and division elect a standing committee of its faculty who, with its dean as chairman, shall advise the dean on all matters relating to program planning and budget policy," with the additional proviso that such divisional committees be charged to assist the deans in establishing guidelines for Faculty productivity.
- (7) That the Executive Committee of the Faculty Senate be enlarged to a membership of seven persons who shall, by the already established procedures for nomination and election, represent the Columbian College of Arts and Sciences, the National Law Center, the School of Education and Human Development, the School of Engineering and Applied Science, the School of Medicine and Health Sciences, and the School of Government and Business Administration; and that the seventh seat alternate annually between Senate representatives of the School of Public and International Affairs, and the Graduate School of Arts and Sciences; further, that a quorum consist of four members.

- (8) That members of the Senate Executive Committee, except the Chairman, serve as ex officio and voting members of the Committees on Educational Policy; Appointment, Salary and Promotion Policies; Professional Ethics and Academic Freedom; Administrative Matters as They Affect the Faculty; and the Joint Committee of Faculty and Students; and as ex officio and voting members of such other Standing Committees as the Executive Committee may deem appropriate.
- (9) That the Coordinator of Senate Activities secure routinely from all outgoing chairmen of Senate Standing Committees such records and correspondence as may be appropriate to convey to the successor chairmen, and to convey these documents thereto as soon as copies have been reproduced for storage in the permanent files of the Faculty Senate Office.
- (10) That the Executive Committee of the Faculty Senate appoint a Permanent Subcommittee on Committees, not necessarily from its own membership (whose functions are described on pages 11 and 12 of this Report).
- (11) That the Senate Bylaws be amended in such a way as to retain intact the Faculty's right to be consulted in those areas of University governance which are designated by the names of Senate Standing Committees while permitting the Senate the option, from year to year, of activating these Committees, or allowing them to be dormant.
- (12) That Article III of the Faculty Organization Plan be amended to allow the several Faculties the option of placing restrictions on the number of consecutive terms to which their Senate representatives might be elected.
- (13) That the Executive Committee of the Faculty Senate consider the desirability of requesting the Administration to include in the annual budget for the Faculty Senate an amount, based on past expenditures, to be designated for funding special projects of the Faculty Senate.
- (14) That the Faculty Assembly adopt and convey to the Trustees a statement of its expectations as to what the Faculty role shall be implementing Section C, subsection 5 of "Procedures for Implementation of the Faculty Code," to wit:

"The Faculty Assembly shall elect a committee to advise and consult with the Board of Trustees or appropriate members thereof in the selection of a President."

CHART A

Showing the responses of 99 faculty to an "issues" questionnaire
(This questionnaire was sent to the 300 faculty
who have served on Committees of the Faculty
Senate during the past ten years.)

Future issues most requiring Senate attention

faculty devel. & rsch:	
faculty grievances:	
budget matters:	
academic freedom:	
faculty salaries:	
faculty appmnts. & promotns.:	
stu. discip. & acad. stndrds:	
fac. rel. with admin.:	
teaching load policies:	
unionization:	

Past issues best served by senate

faculty devel. & research:	
faculty grievances:	
budget matters:	
academic freedom:	
faculty salaries:	
faculty appmts. & promotns.:	
stu. discip. & acad. stndrds:	
fac. rel with admin.	

Past issues least well served by Senate.

faculty devel. & rsch:	
faculty grievances:	
budget matters:	
academic freedom:	
faculty salaries:	
faculty apptmts. & promotns.:	
stu. discip. & acad. stndrds:	
fac. rel with admin.:	
teach oad policies:	

CHART B

Showing the responses of 324 faculty to a questionnaire
(This questionnaire was sent to the 420 faculty
who have not participated in Senate governance
during the past ten years.)

Future issues most requiring Senate attention

faculty devel. & resch.:	
faculty grievances:	
budget matters:	
academic freedom:	
faculty salaries:	
faculty appmnts. & promotns.:	
stu. discipl. & acad. stndrds:	
fac. rel. with admin.:	
teaching load policies:	
unionization:	

For issues affecting faculty, which source is most informative?

The Hatchet:	
Senate Minutes:	
Assembly Minutes:	
The Monday Report:	
memos from chairman:	
memos from dean:	
other:	

The Senate deals with important faculty issues:

almost always:	
usually:	
sometimes:	
seldom:	

"Reading" of Senate Minutes, characterization of:

always read thoroughly:	
almost always read thoroughly:	
usually read only Resolutions	
usually scan quickly:	
seldom or never read:	
other:	

Chart C
Passed Resolutions of Senate Standing Committee Origin

1974-1985

High Yield		
Executive Committee		44
Educational Policy		12
Appt., Sal., Prom.		11
Professional Ethics		8
Joint Committee		8
Medium Yield		
Admin. Matters		5
Public Ceremonies		5
Library		5
Athletics		4
Physical Facilities		4
Student Financial Aid		4
Low Yield		
Admissions (defunct)		1
Fiscal Planning		3
Research		3
University Objectives (defunct)		2
Univ./Urban Affairs		2
Univ. Dev./Resources		1

Chart D

Size of Faculties and Senate Representation

	Number of Faculty	% of total Fac. exclusive of Med. School	Present level of Senate Representation	Proposed Level of Senate Representation
CCAS	303	53%	9 (35%)	11 (34%)
SGBA	97	17%	3 (11.5%)	5 (16%)
SEHD	51	9%	3 (11.5%)	3 (9%)
SEAS	72	13%	3 (11.5%)	4 (13%)
NLC (law)	47	8%	3 (11.5%)	3 (9%)
SMHC (med)	500	-	3 (11.5%)	3 (token) (9%)
SPIA (negligible)		-	1 (4%)	1 (token) (3%)
GSAS (negligible)		-	1 (4%)	1 (token) (3%)
			<hr/> 26 (100%)	<hr/> 31 (100%)